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NATIONAL ENVIRONMENTAL POLICY ACT OF 1969 (P.L. 91-190): Bibliography on Impact Assessment Methods and Legal Considerations

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NATIONAL ENVIRONMENTAL POLICY ACT OF 1969 (P.L. 91-190): BIBLIOGRAPHY ON IMPACT ASSESSMENT METHODS AND LEGAL CONSIDERATIONS

by

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Green Bay

Introduction

The National Environmental Policy Act (P.L. 91-190) is hailed as a landmark public law because, at least on paper, it places environmental concerns on a par with technologic and economic considerations. As such, a new ingredient has been added to federal decision making that will hopefully yield more sensitive decisions. Recognition of the value of this new ingredient will not come overnight nor will its implementation come easy.

Aside from federal decision making, NEPA itself is having far reaching impacts as it slowly shapes legislation and agency thinking on state and local levels. Agencies are undertaking environmental impact statements even when not required by statute. Private developers are beginning to consider environmental impact analyses a critical aspect of doing business responsibly. Universities are practicing what their faculties are teaching in considering the impacts of campus development plans. All of these positive spinoffs from NEPA depend upon the development of methodologies, procedures and background information for assessing environmental impacts. This bibliography is presented to meet this informational need.

This publication focuses on procedures and methods for assessing impacts as well as the legal ramifications of NEPA. This growing transdisciplinary body of literature should be of particular interest and use to planners actively involved in assembling or critiquing environmental impact statements.

I would like to recognize the special assistance of Will Knoespel in assembling this bibliography.

SUBJECT: ENVIRONMENTAL IMPACT STATEMENTS

Impact Assessment Methods

Preparation

"AEC Considers Environmental Impact of Power Reactors", Physics Today, Vol. 24, pp. 62, November 1971.

With a decision handed down 23 July in the course of a suit against AEC by three groups who charged that the Baltimore Gas & Electric Company's Calvert Cliffs reactor, being built on the Chesapeake Bay in Maryland, was not in accordance with NEPA. The decision ruled that in order for the AEC to comply with NEPA, the AEC is "directly responsible for evaluating the total environmental impact, including thermal effects, of nuclear power plants, and for assessing this impact in terms of the available alternatives and the need for electric power."

"Airport Expansion Plan Killed by Environmental Impact Report", Civil Engineer, Vol. 41, pp. 95-, April 1971.

Anonymous. Environmental Policy Considerations. A compilation of papers presented at Session No. 14 - 1973 ASCE National Meeting on Water Resources Engineering, Washington, D.C., 1973, 47 pages.

This publication focuses on the environmental considerations involved in planning, constructing and managing reclamation projects. Of particular interest is a paper entitled Environmental Criteria for Reclamation Projects.

Baumgold, M.S. and G.A. Enk, eds. A Systematic Approach to Environmental Impact Review. Rensselaerville, New York: The Institute on Man Science, June 1972.

Interpretive report on a systematic approach to environmental impact review, which was dealt with in a four day program, put on by the Institute on Man and Science for the New York State Department of Environmental Conservation. Included in the program was an involvement matrix and an information matrix. An hypothetical case study was devised. USGS 645 was used to determine the environmental impact of a proposed project.

Beard, D.P. "The National Environmental Policy Act in the Courts and Congress, 1970-1972," an unpublished manuscript secured from the author, Dartmouth College, Hanover, New Hampshire, 1972. (mimeo)

Bella, D.A., A.M. ASCE and W.S. Overton. "Environmental Planning and Ecological Possibilities", American Society of Civil Engineers Proceedings, 98 (SA 3 NO 8994), pp. 579-592, June 1972.

An environmental strategy that prevents conditions which would significantly destroy the quality of life as perceived by this and future generations. The indeterminant changing value systems of society are recognized and thus no attempt is made to define "quality of life". This strategy does not apply to catastrophes resulting from failure of man-made systems; such failures must continue to be avoided through appropriate safety factors incorporated into the system design. In consideration of decision making strategies, four levels are identified, depending on the scope and kind of information available to the process. Specifically the following cases are identified: (1) The certain outcome case; (2) the uncertain outcome, probability specified, case; (3) the uncertain outcome, probability unspecified, case; and (4) the unspecified outcome case.

"Can Cost/Benefit Studies Muffle Environmentalists? Interview with NEPA Executives", Electronics World, Vol. 177, pp. 32-34, February 15, 1972.

Carpenter, R.A. "Information for Decisions in Environmental Policy", Science, Vol. 168, pp. 1316-1322, 12 June 1970.

The article discusses how the Congress has developed a special service to deal with environmental issues. A listing of principal congressional committees concerned with environmental quality and productivity is given. The article discusses the Legislative Reference Service, Environmental Policy Division, ecological information sources and techniques for Congressional Assistance.

Cohn, V. "Cutting the Legs Off Section 102", Technology Review, Vol. 74, No. 6, May 1972, pp. 7-8.

Describes the results of Section 102 of the NEPA of 1969 requiring environmental impact statements on major projects: court actions blocking or delaying projects such as nuclear power plants, the Cross-Florida Barge Canal, federal sale of oil and gas leases, and the Trans-Alaska Pipeline; notes pressures for exemptions from or amendments to this requirement and describes opposing concerns--over delay in progress in the name of environmental protection and over the consequences of weakening the NEPA of 1969.

"Council on Environmental Quality Issues Supplemental Guidance to Agencies for Improving Agency NEPA Procedures", Congressional Record, Vol. 118, No. 105, 27 June 1972, pp. 7-8.

Consists of the entire text of the May 1972 issue of the CEQ's 102 Monitor (see SPR 4(2):526 and 5271), presenting 10 recommendations for improving agency NEPA procedures, and listing draft and final environmental impact statements received from each agency.

Dingell, J.D. "Environmental Impact Statements", Congressional Record, Vol. 188, No. 58, 13 April 1972, pp. E3778-3780.

Presents the text of the Council on Environmental Quality's April 1972 issue of the 102 Monitor, including remarks by R.E. Train, Chairman, concerning questions on the environment and national priorities, and emphasizing the need for a national debate on growth; includes a listing of environmental impact statements received by the CEQ during March.

Ditton, R.B. "Environmental Impact Analysis and the Park Administrator," Unpublished paper presented at the 1972 Congress for Recreation and Parks, Anaheim, California, October 4, 1972.

Ditton, R.B. and T.L. Goodale, eds. Environmental Impact Analysis: Philosophy & Methods, University of Wisconsin Sea Grant Program, part of the National Sea Grant Program, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Sea Grant Publications Office, 1225 West Dayton Street, University of Wisconsin, Madison, Wisconsin 53706, 1972.

Includes the proceedings of the Conference on Environmental Analysis held in Green Bay, Wisconsin, January 4-5, 1972. Chapters 1-4 deal with the impact of the National Environmental Policy Act of 1969. Chapters 5 and 6 deal with NEPA and its effect on the Federal Highway Administration and U.S. Army Corps of Engineers respectively. Chapters 7-15 deal with environmental impact perspectives, dimensions, and assessment procedures, with some concluding remarks in chapter 16. The appendices present NEPA formally, explain the environmental impact statement process through questions and answers, list sources for Environmental Impact Statements, list sources for back issues of the 102 Monitor, summary of 102 Statements filed with the CEQ through 11/30/71, Environmental Impact Statements and federal agency contacts.

Eckenrode, R.T. "Weighting Multiple Criteria", Management Science, Vol. 12, pp. 180-192, November 1965.

The article deals with identifying efficient and reliable methods for collecting data on human judgments about the relative value of a series of items. If there are a series of criteria for design trade-offs to be applied to a system in development, a problem arises as to the relative importance of each criterion. Similar problems arise in selecting among competing alternatives systems or operations, in decision problems. The reliability and time efficiency of six methods for collecting the judgments of experts in such situations is presented; particular attention is given to the rank-weighting method.

Eipper, A.W., C.A. Carlson and L.S. Hamilton. "Impacts of Nuclear Power Plants on the Environment", The Living Wilderness, Vol. 34, pp. 5-13, Autumn 1970.

Effects of power plants on marine and aquatic ecosystems discussed; emphasis on thermal and radioactive pollutants.

Fruin, J.J. "Environmental Factors in Passenger Terminal Design", American Society of Civil Engineers Proceedings, 98 (TE 1 NO 8734), pp. 89-101, February 1972.

Gillette, R. "National Environmental Policy Act: Signs of Backlash are Evident", Science, Vol. 176, No. 4030, 7 April 1972, pp. 30-33.

Notes the discontent toward NEPA stemming from the burden of paper work imposed by the requirement for preparing environmental impact statements for major governmental actions; describes federal agencies' pressures for new legislation to grant some exceptions to that requirement and to permit interim licensing of nuclear plants.

Gillette, R. "National Environmental Policy Act: How Well is it Working?" Science, Vol. 176, No. 4031, 14 April 1972, pp. 146-150.

Describes the effectiveness of NEPA's requirement for environmental impact statements, particularly inforcing government agencies to reveal the reasoning behind their activities, and to solicit and respond to comments from the public and other agencies before taking any major action; discusses NEPA's drawbacks, its apparently minimal effect so far on agency decisions, and the possibility that agencies will shape impact statements to fit preconceived decisions.

Harris, C. "In Productive Harmony: Environmental Impact Statements Broaden the Nation's Perspectives". U.S. Environmental Protection Agency, Washington, D.C. 20460, September 1972, 12 pages.

Answers such questions as: What is an Environmental Impact Statement?, What is the Purpose of the Statement?, What Actions Must Statements Cover?, What are the Contents of a Statement?, What does a Statement Look Like?, When is a Statement Prepared?, How Does an Agency Prepare a Statement?, Who Reviews Each Statement?, What is the Role of the CEQ?, What is the Role of the EPA?, How do Impact Statements Affect the Public?, How do Impact Statements and the Courts Interact?

Harvard University, Landscape Architecture Research Office, Graduate School of Design. Three Approaches to Environmental Resource Analysis. Washington, D.C.: The Conservation Foundation, November 1967.

Three approaches to environmental resource analysis are presented: (1) G. Angus Hills--attempts to determine the potential productivity of any piece of land in order to evaluate whether its present value or future use can be made economically feasible and socially desirable, (2) Philip H. Lewis--attempts to incorporate ecological factors into the general planning process to identify prime lands for recreation and conservation purposes. To this end, he uses visual indicators to help identify and rate the environmental qualities of the landscape, (3) Ian L. McHarg--uses a so-called "ecological approach" to create the highest and best use of an area with regard to both man and the natural environment. The approach is based on an ecology including both natural and man-made forms.

Herbert C.F. "Mining Impact Statement for Alaska", Mining Engineering, Vol. 23, pp. 44-46, December 1971.

Hills, G.A. "The Classification and Evaluation of Land for Multiple Uses", Forestry Chronicle, pp. 1-25, June 1966.

A summary of the principles and methods employed in the development and application of the following research: (1) classification of the physiographic (soil and climate) features of land and water bodies, and (2) development of methods for rating physiographic classes for various uses within an ecological framework. Such evaluation studies are done for timber production, wildlife production, fish production and outdoor land-oriented recreation.

Hills, G.A. The Ecological Basis for Land-Use Planning, Research Report No. 46. Toronto: Ontario Department of Land and Forests, 1961.

Presentation of a basis for land-use planning directed to those people responsible for the management of renewable natural resources. The report states the underlying principles of land classification, suggests how these principles can be applied within the procedural framework of the Ontario Department of Lands and Forests, and presents a model to demonstrate how these principles and procedures can be applied to specific areas.

Hills, G.A. The Use of Land-Type Maps in Land-Use Planning, Section Report (Site) No. 31. Maple: Ontario Department of Lands and Forests, 1960.

A prototype report of "The Ecological Basis for Land-Use Planning."

Hills, G.A. Ranking the Recreational Potential of Land Units by Gradient Analysis; a Physiographic Classification of Land for Recreational Use. Ottawa: Proceedings-National Meeting on Land Capability Classification for Outdoor Recreation, February 23 and 24, 1966.

A general discussion of Hills' techniques for raniing land units for recreation use, including definitions of the capability classes.

Holme, H. "Breeder Reactors and the National Environmental Policy Act", Yale Review of Law and Social Action, Vol. 2, pp. 362-373, Summer 1972.

Points out the impacts that breeder reactors have on the environment. AEC should point out these impacts in their environmental impact statements.

Kennedy, W.V. and B.B. Hanshaw. "The National Environmental Policy Act of 1969: Its Effectiveness and Limitations," an unpublished manuscript secured from author Hanshaw, U.S. Geological Survey, Washington, D.C., 1972. (mimeo)

Of particular interest in this article, the authors examined in detail 200 final impact statements randomly selected from the total number submitted to the Council of Environmental Quality between May and September of 1971. Analysis focused on four questions: 1) Was the project or action undertaken or rejected on the basis of environmental impact analysis? 2) Did the action have any adverse environmental effects which could not be avoided, 3) Were there alternatives to the action and, if so, how were they considered? and 4) Did the sponsoring agency solicit the advice of the Environmental Protection Agency and, if so, how did the EPA respond?

Kross, B.C. "Preparation of an Environmental Impact Statement", University of Colorado Law Review, Vol. 44, pp. 81-, August 1972.

Uses a coal-fired electrical generating station as an example for the development of an environmental impact statement for a "major federal action".

Kruecheberg, D.A. "State Environmental Planning: Requirements vs. Behavior," AIP Journal, November 1972, pp. 392-396.

Krutilla, J.V. and C.J. Cicchetti. "Evaluating Benefits of Environmental Resources With Special Application to the Hells Canyon", Natural Resources Journal, Vol. 12, pp. 1-29, January 1972.

Offer a methodology for assigning economic value to an area in the underdeveloped state and in the developed state; using the Hells Canyon as an example. These economic values are considered with respect to time, i.e., the change in value with respect to time, dV/dt.

Leopold, L.B., F.E. Clarke, B.B. Hanshaw and J.R. Balsley. A Procedure for Evaluating Environmental Impact, Geological Survey Circular 645. United States Department of the Interior, Geological Survey, Washington, D.C. 20242, 1971, 13 pages with information matrix for environmental impact assessment.

The circular offers a procedure of developing an action program and assessing environmental impacts on existing environmental conditions associated with proposed actions; 8,800 interactions are possible without modifying the methodology. An example application of the methodology is included.

Lewis, P.H. The Outdoor Recreation Plan, Wisconsin Development Series. Madison: Wisconsin Department of Resource Development, 1966.

A report submitted as part of the comprehensive state plan, which succeeds the 1963 preliminary report, "Recreation in Wisconsin." A good example of the resource value point system in the appendix.

Lindeman, M.H. Burrard Inlet Ecological Study for the City of Port Moody. Vancouver, B.C.: Eikos Consultants Ltd., 1972, 59 pages.

Presents an environmental evaluation methodology measuring how well an area meets an ecological objective or set of objectives for the ecosystem. In the example, a prime objective is to maintain and improve the environmental quality essential to the well-being of the flora and fauna of the diverse habitat.

Nieman, B.J. Jr. and A.H. Miller. Interstate 57 - An Application of Computer Technology to Highway Location Dynamics. Environmental Awareness Center, Department of Landscape Architecture, the University of Wisconsin-Madison.

An application of information technology to the environmental management process, realizing that if we profess environmental complexity and interdependence, we must utilize alternative methods and technologies for the development of a responsive management process.

Olds, F.C. "Preparing the Environmental Statement", Power Engineering, Vol. 75, pp. 45-47, June 1971.

Smith, S.V. "Factor Analysis: A Tool for Environmental Studies", Marine Technology Society Journal, Vol. 5, pp. 15-19, November 1971.

Presents a methodology for determining the state of an estuary by using factor analysis. Principal component factor analysis provides an efficient and objective method for describing hypothetical "indicator variables" in a complex environment. The resultant variables, or "factors", can simplify and then recover with measurable degree of success the original data matrix. Each resultant factor can be further manipulated statistically and can be interpreted in its own right.

Sorenson, J.C. A Framework for Identification and Control of Resource Degradation and Conflict in the Multiple Use of the Coastal Zone. Master's thesis published by the Department of Landscape Architecture, College of Environmental Design, University of California-Berkeley, June 1971.

Included is a methodology for environmental impact assessment as an improvement over the U.S. Geological Survey Circular 44. There are four matrices, A (Residential, Commercial, Agricultural), B (Recreational), C (Extractive), and D (Industrial, Transportational). The matrices associate possible adverse impacts, broken down into initial conditions, consequent conditions and effects, with causal factors.

STV Consulting Engineers, Inc. Environmental Impact Assessment: A Procedure. Pottstown, Pennsylvania: STV, Inc., 1972, 25 pages.

This publication presents a procedure for developing an environmental impact statement. The first step is an environmental inventory followed by an analysis of the predicted effects of the project proposal. The procedure developed includes a method for assigning numerical values for information developed on the environment, human well being and the proposed development. The method systematizes and clarifies the data and interrelationships involved.

University of Wisconsin Central Administration. Environmental Assessment Procedures. Madison, 1972.

This is a document very similar to the Wisconsin Guidelines for writing an environmental impact statement. There is a page discussing the differences between the two. These include the list of offices to which copies should be sent; examples of what a significant impact is, and the definition of what the human environment is.

U.S. Army Corps of Engineers, Institute for Water Resources. An Analysis of Environmental Statements for Corps of Engineers' Water Projects. Report 72-3. Washington, D.C.: U.S. Army Corps of Engineers, June 1972.

Pages 131-135 include a form for evaluating environmental statements including controversial issues, intent and comprehensiveness.

U.S. Environmental Protection Agency. Environmental Assessments for Effective Water Quality Management Planning. Washington, D.C., 1972.

Guidance to state, regional, local planners responsible for preparing environmental impact assessments in basin, metropolitan and regional water quality management plans.

Wenger, R.B. and C.R. Rhyner. "Evaluation of Alternatives for Solid Waste Systems." Journal of Environmental Systems, Vol. 2 (2), pp. 89-108, June 1972.

A method is presented which incorporates environmental, social and engineering factors into the selection of a solid waste system from among several alternatives. The methodology relies upon the establishment of a data matrix for the criteria and alternatives under consideration and upon the assignment of weights to the various criteria. A stochastic procedure takes account of the inherent uncertainty in the quantitative values assigned to subjective criteria and for the uncertainty in the assigned weightings. An example is included which demonstrates the use of the method.

White, G.T. "Environmental Impact Statements", Professional Geographer, Vol. 24, pp. 302-309, November 1972.

Zieman, J.C., H.H. Shugart, G.A. Bramlet, A. Ike, J.R. Champlin and E.P. Odum. Optimum Pathway Matrix Analysis Approach to the Environmental Decision Making Process, Testcase: Relative Impact of Proposed Highway Alternatives. Institute of Ecology, University of Georgia, Athens, Georgia, 1971, 13 pages with appendix.

The study is a result of the request by the State Highway Department to the Institute of Ecology for a summary evaluation of all the reports already prepared on alternate routes for the uncompleted sections of I-75 north of Atlanta. The study was designed to merge all component factors in a totality analysis with emphasis on the effect of each alternative on the "Quality of Human Environment". The effects of the proposed route on the environment were considered, weighted and entered into a systems analysis, together with the economic and human factors.

SUBJECT: LAW

"America's Changing Environment-Is the National Environmental Policy Act A Change for the Better?" Fordham Law Review, Vol. 40, pp. 897-, May 1972.

The court has displayed through such cases as: Environmental Defense Fund, Inc. vs. Hardin, Eley vs. Valde, Bucklein vs. Volpe, Texas Committee on Natural Resources vs. United States, Calvert Cliffs' Coordinating Committee, Inc. vs. Atomic Energy Commission, Sierra Club vs. Hardin, Lathan vs. Volpe, Upper Pecos Association vs. Stans, Davis vs. Morton, -- that compliance with the procedural requirements of the NEPA will be strictly enforced. The Council on Environmental Quality should be given a larger budget which will provide a staff that can adequately review the environmental ramifications of all federal actions.

California. Attorney General's Check List for Implementation of the California Environmental Quality Act, (Public Resources Code ss 21000-21151), Environmental Unit, October 1972.

A checklist for guidance of the California Environmental Quality Act. Answers questions about the Act.

Choulos, V.B. "Go--Back--You Forgot to Say "May I!" or Standing in Environmental Litigation", Lincoln Law Review, Vol. 6, pp. 127-, June 1971.

Citizens for Reid State Park vs. Laird, Civil No. 13-18 (D. Me. January 21, 1972) 3 E.R.C. 1580", JAG Journal, Vol. 26, pp. 290-, Spring 1972.

"Citizen's to Preserve Overton Park, Inc. vs. Volpe, 91 Sup. Ct. 814", Case Western Reserve Law Review, Vol. 22, pp. 804-, June 1971.

The court's interpretation of the language of section 4(f) of the Department of Transportation Act of 1966 and section 18 (a) of the Federal Aid Highway Act of 1968 represented an explicit bar to the use of Federal funds to build highways through parks except in unusual situations. Because of this interpretation, environmentalists no longer have the burden of showing that the decision of the Secretary, after balancing the conservation of the parkland against such other factors such as cost, safety, community disruption, resulting from the use of an alternative route is plainly wrong and arbitrary. The Secretary must show that he gave paramount importance to the protection of the parkland; that nevertheless other factors presented such unique problems that an alternate route was not justified. The court's granting to stay pending appeal, halting highway construction, to the plaintiffs; implied the court will no longer accept sovereign immunity as an absolute defense.

Cohen, B.S. and J.M. Warren. "Judicial Recognition of the Substantive Requirements of the National Environmental Policy Act; A Postscript to Calvert Cliffs (Calvert Cliffs Coordinating Committee, Inc. vs. AEC (449 F 2d 1109), Boston College Industry & Commercial Law Review, Vol. 13, pp. 625-, March 1972.

Coleman, V.F. "Possible Repercussions of the National Environmental Policy Act of 1969 on the Private Law Governing Pollution Abatement Suits", Natural Resources Lawyer, Vol. 3, pp. 647-, November 1970.

Laws defined by the courts through various cases dealing with pollution abatement suits; speculates as to how in the future the NEPA may change private law governing pollution abatement suits.

Crampton, R.C. and R.K. Berg. "Enforcing the National Environmental Policy Act in Federal Agencies", Practical Lawyer, Vol. 18, pp. 79-, May 1972.

The effect of NEPA up to May 1972 covering judicial victories for environmentalists, administrative changes, provisions of the Act, and the beneficial effects of NEPA.

"Environmental Impact Statements--A Duty of Independent Investigation by Federal Agencies", University of Colorado Law Review, Vol. 44, pp. 161-, August 1972.

Discusses the court case Green County Planning Board vs. FPC. The court decision adds to the Calvert Cliffs' decision as to the role of the detailed impact statement. That is, the impact statement is to be a decision making tool; Green County's ruling emphasizes that it is a decision making tool to be fashioned by the agency itself. The agency must balance the non-environmental costs and benefits against the environmental costs and benefits of a proposed project. The project must be justified against reasonable alternatives in terms of these costs and benefits prior to starting the proposal through the agency review process.

"Environmental Law--Administrative Review--National Environmental Policy Act of 1969 Requires the Federal Agency Charged With Ultimate Responsibility For A Project to Conduct Comprehensive Environmental Impact Studies in Every Important Stage of its Decision Making Process", Georgetown Law Journal, Vol. 60, pp. 1353, May 1972.

Interpreted by the courts through the Calvert Cliffs' Coordinating Committee, Inc. vs. AEC. U.S. App. D.C., 449 F. 2d 1009, 1971.

"Environmental Law--National Environmental Policy Act of 1969--Atomic Energy Commission Fails to Meet the Requirements of the NEPA". Kansas Law Review, Vol. 20, pp. 501-, Spring 1972.

Presents decisions by the court; Calvert Cliffs' Coordinating Committee, Inc. vs. United States Atomic Energy Commission, Pennsylvania Environmental Control Inc. vs. Bartlett, and Bucklein vs. Volpe.

"Environmental Law--National Environmental Policy Act of 1969--Federal Agencies Must on Their Own Initiative Consider all Environmental Impacts of Proposed Agency Actions, as Well as Alternatives to the Actions, at All Stages in the Decision-Making Process", Virginia Law Review, Vol. 58, pp. 177-, January 1972.

Presents the Calvert Cliffs' Coordinating Committee, Inc. vs. AEC.

"Environmental Law-NEPA--Federal Agencies Must Evaluate Possible Environmental Damage From Proposed Activities", University of Illinois Law Forum, Vol. 1971, pp. 531-, 1971.

"Environmental Law--Retroactive Application of the National Environmental Policy Act", Tennessee Law Review, Vol. 39, pp. 735-, Summer 1972.

"Environmental Law--Strict Compliance with Procedural Requirements of NEPA--the Agencies Must Play by the Rules", University of Florida Law Review, Vol. 24, pp. 814-, Summer 1972.

"Environmental Protection-NEPA--Federal Agencies Must Give Full and Immediate Consideration to Environmental Factors in Their Project Plans, Regardless of Compliance With Specific Quality Standards in Other Statutes", Vanderbilt Law Review, Vol. 25, pp. 258-, January 1972.

Displays the interaction of NEPA with other acts and how federal agencies comply with NEPA.

Environment Reporter, Vol. 1, 2, 3, 4, 5, Bureau of National Affairs, Inc.

Summarizes court cases involving the environment. Translates original transcript into a more easily read paper. Gives background of court cases, proceedings and final outcome.

"Federal Courts--To Enforce Federal Environmental Laws, a Federal Court Can Declare a State Highway Project to be "Federal" and Enjoin the State From Proceeding on its Own", Texas Law Review, Vol. 50, pp. 381-, January 1972.

The federal court has extended the reach of federal law without stating an underlying rationale.

Geogio, J.W. "Parklands and Federally Funded Highway Projects: The Impact of Conservation Society vs. Texas", Environmental Affairs, Vol. 1, pp. 882-901, March 1972.

The article deals with the court case Conservation Society vs. Texas and reveals the court's ruling. The decision gives full force to the environmental policies declared in the NEPA of 1969, the Department of Transportation Act of 1966, and the Federal-Aid to Highway Act of 1968. The contention that the Secretary of Transportation might use the "Feasible and prudent alternative" provision of the latter two acts in order to construct the scope of his environmental-protection duties was rejected by the court. The court required that the Secretary, in his evaluation of proposed highways through parklands, give utmost consideration to environmental preservation; the court made clear that the Secretary would not be bound by any local determination that a park was without local significance. Given a determination as such, he would be required to make an independent judgment on the local significance of the park in question. The court, in dicta, dealt with the meaning and effect of federal involvement in state highway programs; it stated that federal involvement might commence even prior to the utilization of federal monies and that, once federal involvement had commenced, a state could not thereafter avoid federal law by attempting to withdraw its request for federal aid.

Graeub, W.C., et al. "Impact of Environmental Controls on Highways", American Society of Civil Engineers Proceedings, 98 (TE 2 NO 8906), pp. 263-274, May 1972.

Hanks, E.H. and J.L. Hanks. "Environmental Bill of Rights: the Citizen Suit and the National Environmental Policy Act of 1969", Rutgers Law Review, Vol. 24, pp. 230-, Winter 1970.

The article attempts to answer three questions: (1) Does NEPA of 1969 recognize or create judicially protectable environmental interest capable of being asserted by citizen groups? (2) Does the Act affect the jurisdiction of federal agencies in departments? (3) Does the Act put the burden of compiling the environmental record on the agencies and does it establish principles of decision making which favor the ecological status quo? The article develops an affirmative answer to all three questions.

"Illinois Environmental Protection Act--A Comprehensive Program for Pollution Control", Northwestern University Law Review, Vol. 66, pp. 345-, July-August 1971.

Johnson, W.K. "Environmental Litigation: Lessons From the Courts", Civil Engineer, Vol. 42, pp. 55-58, January 1972.

"Judicial Review of Factual Issues Under the National Environmental Policy Act", Oregon Law Review, Vol. 51, pp. 408-, Winter 1972.

Kerri, K.D. "Environmental Assessment of Resource Development", American Society of Civil Engineers Proceedings, 98 (SA 2 NO 8811), pp. 361-374, April 1972.

Kessler, N.S. and P.A. Porter. "Environmental Law--NEPA--Section 102 of the National Environmental Policy Act of 1969 Imposes on Federal Agencies a Judicial Enforceable Duty to Consider at Every Distinctive and Comprehensive Stage of an Agency Review Process all Environmental Values Except Those Expressly Within the Jurisdiction of Another Agency", George Washington Law Review, Vol. 40, pp. 558-, March 1972.

New Hampshire vs. AEC, Scenic Hudson Preservation Conference vs. FPC, Calvert Cliffs' Coordinating Committee, Inc. vs. AEC --- the courts determine agencies' compliance with NEPA.

Klinghan, J.H. "NEPA Birth and Infancy", Catholic University Law Review, Vol. 20, pp. 184-, Fall 1970.

Presents the development of NEPA; effect of NEPA.

Levine, M. The Santa Barbara Sage; Pre- and Post-NEPA", Lincoln Law Review, Vol. 7, pp.-, December 1971.

Offers a contrast of trying to develop environmental rights through the court decisions and being presented the rights by legislative action through NEPA.

Like, I. "The National Environmental Policy Act and Technology Assessment", Lincoln Law Review, Vol. 6, pp.-, December 1970.

The NEPA and technology assessment of nuclear power plants. If NEPA embraces the entire atomic energy technology, the citizen has the right to demand hearings on, and claim standing to intervene or sue in all matters involving the various steps of the nuclear fuel cycle; including the application for a license to handle source, special nuclear and by-product materials, applications for a license to transport radioactive materials, construction and operation of fuel reprocessing plants, construction and operation of high level radioactive waste storage facilities.

Liroff, R. A. "Administrative, Judicial, and Natural Systems: Agency Response to the National Environmental Policy Act of 1969", Loyola University Law Journal, Vol. 3, pp. 19-, Winter 1972.

Long, B. L. "Implementing Our National Policy for the Marine Environment", Journal of Environmental Science, Vol. 13, pp. 21-25, July 1970.

Martin, W. B. "Private Environmental Litigation", Kentucky State Bar Journal, Vol. 36, pp. 24-, January 1972.

"Michigan Environmental Protection Act of 1970", Journal of Law Reform, Vol. 5, pp. 121-, Fall 1970.

"Minnesota Environmental Rights Act", Minnesota Law Review, Vol. 56, pp. 575-, March 1972.

Morris, J. S. "Environmental Statutes: The Need for Reviewable Standards", Environmental Law, Vol. 2, pp. 75-82, Winter 1971.

It is suggested that our statutes should set sufficiently definite and objective standards for agency action to facilitate judicial review. This is especially important in those situations where agencies have overlapping jurisdiction and there is a conflict between the goals and policies of the different agencies involved. Presents the following cases: Citizens Committee for the Hudson Valley vs. Volpe (standing case), Parker vs. United States (designation of a wilderness area), Udall vs. Federal Power Commission (compliance with sections 7 and 10 of the Federal Water Power Act of 1920 (prior to NEPA)), Scenic Hudson Preservation Conference vs. Federal Power Commission (consideration of recreational values under NEPA).

"National Environmental Policy Act: A Sheep in Wolf's Clothing?" Brooklyn Law Review, Vol. 37, pp. 139-, Fall 1970.

Develops the meaning of the NEPA and presents the formal wording of it; implementing of NEPA. Early indications are that the primary purpose of the law, namely the imposition of the environmental policy standard on federal agencies, is far from effective. Not because of any failure on the standard itself, but rather in the inconsistant application of NEPA.

"National Environmental Policy Act Interpreted as Requiring Strict Procedural Compliance of Federal Agencies", Natural Resources Journal, Vol. 12, pp. 116-, January 1972.

"NEPA of 1969: A Mandate to the Corps of Engineers to Consider Ecological Factors", Boston University Law Review, Vol. 50, pp. 616-, Fall 1970.

Presents how NEPA has been implied by the courts in actions against the Corps of Engineers; presents the cases Zabel vs. Tabb, Coastal Petroleum Company vs. Secretary of the Army, Stewart vs. Resor, and Akers vs. U.S. Corps of Engineers. Defined plaintiff's rights under federal law.

"NEPA: Full of Sound and Fury ..?", University of Richmond Law Review, Vol. 6, pp. 116-, Fall 1971.

"NEPA--National Historic Preservation Act--Omnibus Crime Control and Safe Streets Act--The Law Enforcement Assistance Administration is Required to Fully Consider the Impact of State Projects Before Approving "Block" Grants Under the Safe Streets Act", Notre Dame Lawyer, Vol. 47, pp. 1042-, April 1972.

"New Guidelines Coming For Environmental Reports", Electronics World, Vol. 177, pp. 54-, May 15, 1972.

Nixon, S.J. "The National Environmental Policy Act's Influence on Standing, Judicial Review, and Retroactivity", Land And Water Law Review, Vol. 7, pp. 115-124, 1972.

Presents the provisions of NEPA, standing as defined by the courts in lieu of NEPA, judicial review with respect to: Parker vs. United States, Wilderness Society vs. Hickel, Sierra Club vs. Hardin, Brooks vs. Volpe, and Investment Syndicate, Inc. vs. Richmond. Even if a conservation group were given standing and even if every impact statement, which included every alternative, was filed, environmentalists are not guaranteed environment preservation. The Act only requires consideration of environmental factors.

"Panoramic View of the National Environmental Policy Act", Howard Law Journal, Vol. 16, pp. 116-, Fall 1970.

Explains the major provisions of NEPA, the evolution of NEPA, develops the meaning of the sections of NEPA; presents court cases: Wilderness Society vs. Hickel, Texas Committee vs. United States, Pennsylvania Environmental Council vs. Bartlett, Zabel vs. Tabb. As a result of these cases NEPA was ruled non-retroactive; and in the case Zabel vs. Tabb the fifth circuit court reversed the decision on appeal from the district court and stated based on Fish and Wildlife Coordination Act of 1958 and the National Environmental Policy Act of 1969, the Secretary of the Army was authorized on ecological grounds to refuse the Rivers and Harbors Act Permit.

"Power and Pollution: Fuel for a Backlash", Nature, Vol. 236, No. 5348, 28 April 1972, pp. 422-423.

Describes the concerns of environmentalists over two governmental actions: (1) passage of a bill by the House of Representatives which allows the Atomic Energy Commission to issue temporary operating permits for some power plants without subjecting them to full environmental review; and (2) the Supreme Court's ruling that environmentalist groups cannot go to court to block projects affecting the environment unless the interests of their members are directly affected; suggests that the greatest setback for the environmental movement could arise from loss of public support brought about by power shortages expected during the summer months.

Puglisi, A.A. "Practical Impact of the National Environmental Policy Act of 1970", Law Institute Journal, Vol. 46, pp. 335-, August 1972.

The concern of the article is with the environmental protection authority or one of its agencies to control or prohibit some activity or other which is to come under scrutiny and assessment under the NEPA. The extent of the effectiveness of the NEPA on law will be derived very largely from lawyers' understanding of what the instigators of the Act were trying to achieve.

Reilly, W.K. "The National Environmental Policy Act and the Federal Highway Program: Merging Administrative Traffic", Catholic University Law Review, Vol. 20, pp. 21-, Fall 1970.

Presents the environmental provisions of federal highway legislation, legislative history of sections 101 and 102 of NEPA, Council on Environmental Quality, Department of Transportation's environmental guidelines, the evaluation of alternatives to highway projects, the problem of applying NEPA to projects authorized before January 1, 1970, uses for environmental impact statements.

Rheingold, P.D. "Primer on Environmental Litigation", Brooklyn Law Review, Vol. 38-, Summer, 1971.

Proposes that litigation has been the heart of environmental law; while the legislative process and citizen self-help are valuable means toward eradication of pollution, the most successful means of scouring the environment has proved to be the private law suit.

"Road to Overton Park (Citizens to Preserve Overton Park, Inc., vs. Volpe, 309 F Supp 1189): 'Parklands Statutes' in Federal Highway Legislation", Tennessee Law Review, Vol. 39, pp. 433-, Spring 1972.

Sax, J.L. "Michigan's Environmental Protection Act of 1970: A Progress Report", Michigan Law Review, Vol. 70, pp. 1003-, May 1972.

Thibodeau, J.H. "Michigan's Environmental Protection Act of 1970: Panacea or Pandora's Box?", Journal of Urban Law, Vol. 48, pp. 557-, April 1971.

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U.S. House of Representatives, Committee on Merchant Marine and Fisheries. Administration of the National Environmental Policy Act (P.L. 91-190), House Report No. 92-316, Union Calendar No. 133, 92nd Congress, first session, June 29, 1971.

The report presents the legislative history of NEPA, compliance problems with NEPA, major activities and accomplishments of the CEQ. In the appendices six agency scenarios on the processing of "102" statements, CEQ Guidelines (April 23, 1971), of Public Law 91-190 are presented.

U.S. House of Representatives, Committee on Merchant Marine and Fisheries, Sub-committee on Fisheries and Wildlife Conservation, Temporary Exemption from Sec. 102 Statements, H.R. 14103, Serial No. 92-29, 92nd Congress, second session, May 2, 3, June 30, 1972.

Pages 236-253 present the basic provisions of NEPA, court decisions affecting NEPA, the purposes and objectives of NEPA, jurisdictional questions, procedural questions, when Environmental Impact Statement is required, the nature of the Environmental Impact Statement and the impact of NEPA on governmental processes.

U.S. Senate, Committee on Interior and Insular Affairs. Calvert Cliffs Court Decision, S. Res. 45, Serial No. 92-14, parts 1 & 2, 92nd Congress, second session, November 3, 1971.

Part 1 includes statements and communications related to the Committee dealing in view of the Calvert Cliffs decision. Part 2 consists of appendices 1-9. Appendices 4-6 deal with the basis for the decision of the U.S. Court of Appeals in Calvert Cliffs Coordinating Committee, Inc., et al. vs. U.S. Atomic Energy Commission and the United States, Radiological Safety and Environmental Impact Review, and background material on Atomic Energy Commission actions to implement the National Environmental Policy Act of 1969.

U.S. Senate, Committee on Interior and Insular Affairs. Congress and the Nation's Environment, 91st Congress, first session, February 10, 1971.

Addendum A presents legal actions citing the National Environmental Policy Act of 1969 as identified by the Council on Environmental Quality in August 1970.

Voight, H.H. "National Environmental Policy Act and the Independent Regulatory Agency: Some Unresolved Conflicts", Natural Resources Law, Vol. 5, pp. 13-, January 1972.

Deals with the procedural requirements of NEPA due to the Executive Order 11514, 35 Federal Register 4247 (March 7, 1970). Some conflicts are presented; ammended section 21 of the Federal Water Pollution Control Act and NEPA, Administrative Procedure Act and NEPA.

Wells, D.E. "National Environmental Policy Act", Florida Bar Journal, Vol. 45, pp. 116-, March 1971.

Effect of NEPA on the Department of Transportation Act of 1966 and the Federal Aid Highway Act of 1968 as defined by the courts through the cases: Overton Park, San Antonio Conservation Society vs. Texas Highway Department, District of Columbia Federation of Civic Associations, Inc., et al. vs. John A. Volpe, et al. Zabel vs. Tabb, Citizens Committee for Hudson Valley vs. Volpe, and Pennsylvania Environmental Council, Inc., et al. vs. Robert G. Bartlett.

Winter, T.C. "The National Environmental Policy Act and its Relation to Offshore and Maritime Activities", Houston Law Review, Vol. 9, pp. 700-, March 1972.

Deals specifically with the effect of NEPA on offshore and maritime activities. Presents court decisions defining the power of the Act in these areas.

Yannacone, V.J., Jr. "National Environmental Policy Act of 1969", Environmental Law, Vol. 1, pp. 8-32, Spring 1970.

States the Act and its effect on federal agencies; other acts such as: The Multiple-Use Sustained-Yield Act, The Water Quality Improvement Act of 1970, Fish and Wildlife Coordination Act, Administrative Procedure Act.

Yost, N.C. "The National Environmental Policy Act in Court and Action--Legal Aspects of Environmental Impact and Recent Court Action, Cases Studies", unpublished paper presented at the 1972 Congress for Recreation and Parks, Anaheim, California, October 4, 1972.

Cites court cases involving NEPA. Answers questions involving environmental impact reports and refers to policy setting court cases.

Zillman, D.N. "Environmental Responsibility for the Military", Military Law Review, Vol. 57, pp. 203-, Summer 1972.

Presents the environmental responsibility for the military as defined by NEPA and the court case, Citizens for Reid State Park vs. Laird, U.S.D.C. Maine.

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